

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANIEL RODRIGUEZ,

No. C 08-2639 SI

Plaintiff,

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS AND GRANTING
PLAINTIFF LEAVE TO AMEND**

v.

THE CITY AND COUNTY OF SAN
FRANCISCO,

Defendant.

Defendant has filed a motion to dismiss the complaint for lack of jurisdiction. The motion is scheduled for a hearing on August 22, 2008. Pursuant to Civil Local Rule 7-1(b), the Court determines that the matter is appropriate for resolution without oral argument, and VACATES the hearing. For the reasons set forth below, the Court GRANTS defendant's motion, and GRANTS plaintiff leave to amend the complaint. If plaintiff wishes to amend the complaint, he must do so no later than **September 5, 2008**.

DISCUSSION

On May 27, 2008, plaintiff filed a complaint against the City and County of San Francisco. Plaintiff alleges that a "Spanish social worker" took his medical card and that as a result he became blind in his left eye. Plaintiff seeks \$1,000,000 in damages. The complaint does not allege any specific claims under any statute, nor does the complaint allege a basis for federal jurisdiction.


Defendant has moved to dismiss the complaint for lack of jurisdiction, or alternatively for a more definite statement. Plaintiff did not file an opposition, and thus the Court does not know whether

1 plaintiff intends to pursue this case. However, in light of plaintiff's pro se status, the Court will allow
2 plaintiff an opportunity to amend the complaint. *See Lopez v. Smith*, 203 F.3d 1122, 1128 (9th Cir.
3 2000).

4 The Court finds that the current complaint is deficient in numerous respects. The Court cannot
5 determine legal basis for plaintiff's claims. The Court advises plaintiff that in order to file a lawsuit in
6 federal court, there must be a basis for federal court jurisdiction, for example if the plaintiff is alleging
7 a claim under a federal statute. If plaintiff wishes to file an amended complaint, the complaint shall (1)
8 state the basis for federal jurisdiction; (2) specifically identify the claims that plaintiff is asserting (for
9 example, if plaintiff is suing under a federal or state statute, the complaint shall identify that statute);
10 (3) state, as clearly as possible, the facts giving rise to the complaint, including the dates upon which
11 the events occurred; and (4) state the relief that plaintiff seeks. **Any amended complaint must be filed**
12 **by September 5, 2008.**

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14 **IT IS SO ORDERED.**

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16 Dated: August 19, 2008

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19 SUSAN ILLSTON
20 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DANIEL RODRIGUEZ,
Plaintiff,

Case Number: CV08-02639 SI

CERTIFICATE OF SERVICE

v.

SF CITY AND COUNTY et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 19, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Daniel Rodriguez
34 Turk Street, #343
San Francisco, CA 94102

Dated: August 19, 2008

Richard W. Wieking, Clerk
By: Tracy Sutton, Deputy Clerk

